



Anthony Grandinette <grandinettelaw@gmail.com>

Depositions of Stg. O'Reily, PO Simeone & PO Oliva

6 messages

Anthony Grandinette <grandinettelaw@gmail.com>

Mon, Dec 1, 2014 at 7:14 PM

To: "Zwilling, Arlene" <arlene.zwilling@suffolkcountyny.gov>

Dear Arlene:

Please be advised that based upon your representations, I wrote Anthony LaPinta and Paul Giannelli on November 26, 2014, and served them with Notices to Depose Sgt. O'Reilly and PO Simeone on December 18th & 19th. Mr. LaPinta contacted me and indicated that his firm is not representing Stg. O'Reilly and that he only represented PO Simeone in relation to the criminal investigation. Mr. LaPinta indicated that your office was representing both officers in the civil matter.

Accordingly, please contact both officers and advise as soon as possible if you are NOT representing them. In the event they have retained independent counsel, please confirm that they have retained counsel for the civil action, and kindly provide the name address and phone number of their respective counsel.

As a polite reminder, I initially Noticed to Depose Simeone, O'Reilly and Olivas' depositions back in September for October 23 & 24 respectively. On October 7, 2014, my office followed up on taking the deposition of these same Officers. In addition, I noticed the depositions of some of the Officers present at the crime scene, Lesiewicz, Rios, and Crawford back on May 2, 2014. We are now in December, and the County has yet to produce a single witness for deposition since the June 24, 2014 deposition of PO Grenia.

I was also waiting to hear back from you to determine if the IAB filed formal charges against any of the officer's involved in this incident?

I have a clear mandate from Magistrate Locke to pursue and complete discovery by our next Court date which will never be accomplished at this rate. Please address some of these issues immediately so we can move forward with scheduling depositions prior to you embarking on your two scheduled trials in February and March mentioned at November 19th conference.

Kind Regards,

Anthony M. Grandinette

Law Offices Of Anthony M. Grandinette
114 Old Country Road
Mineola, N.Y. 11501

E-Mail: Grandinettelaw@gmail.com
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Zwilling, Arlene <Arlene.Zwilling@suffolkcountyny.gov>

Tue, Dec 2, 2014 at 3:29 PM

To: Anthony Grandinette <grandinettelaw@gmail.com>

Unfortunately, I am constrained to say that your email appears to be a preemptive attempt to obscure plaintiffs' failure to proceed with discovery by attempting to create the erroneous impression that it is defendants who are stalling.

Your statement that we have yet to produce any witness other than Officer Grenia for a deposition is simply incorrect. The only two depositions which plaintiffs actually scheduled were those of Officer Grenia and Lt. Crawford. You may recall that upon your advice to us that you would depose both witnesses on the same day, we produced both of them on June 24, 2012. You then declined to proceed with Lt. Crawford's deposition. Nonetheless, we are willing to again produce Lt. Crawford, and produce Officers Rios and Lesciewicz. I will obtain their schedules from the Police Department and provide you with some possible dates.

Despite what Mr. LaPinta may have told you, this office is not at this time representing Sgt. O'Reilly and Officer Simeone. Since I have not had any contact with Mr. LaPinta about this matter, I do not believe that there would be any basis for him to state that we are representing Sgt. O'Reilly or Officer Simeone. In any event, I will contact Sgt. O'Reilly and Officer Simeone to sort out the question of representation, and advise you as to the outcome.

We have not received copies of the deposition notices which you state that you served upon Mr. Gianelli and Mr. LaPinta on November 26, 2014. Copies of the notices, as well as all other papers in this case, must be served on us as counsel for defendants. Kindly provide us with copies of the notices as soon as possible.

As I explained at the last conference, IAB does not have the authority to file charges against officers. No additional charges have been filed against any other officers by the Police Department as of today.

Arlene S. Zwilling

Assistant County Attorney
Suffolk County Attorney's Office
H. Lee Dennison Bldg.
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(631)853-4055
Arlene.Zwilling@suffolkcountyny.gov

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From: Anthony Grandinette [mailto:grandinettelaw@gmail.com]

Sent: Monday, December 01, 2014 7:15 PM

To: Zwilling, Arlene

Subject: Depositions of Stg. O'Reily, PO Simeone & PO Oliva

[Quoted text hidden]

Anthony Grandinette <grandinettelaw@gmail.com>

Tue, Dec 2, 2014 at 5:26 PM

To: Arlene <Arlene.Zwilling@suffolkcountyny.gov>

Dear Arlene:

As I do not believe it would be productive to respond to your ridiculous and factually inaccurate claim that my e-mail request to depose witnesses is a "preemptive attempt to obscure plaintiff's failure to proceed with discovery " please advise as to availability dates of Lt Crawford, Officer Rios and Lesciewicz. I am unavailable between December 19th and the new year. For the record, all four of these depositions were formally Noticed and served on or about May 2, 2014.

In addition we have a lengthy e-mail chain going back months, commencing on July 29th, requesting availability dates to depose relevant witnesses. Then again in October we communicated via e-mail for the same purpose. On September 8, 2014, I served formal Notices to depose Simeone, Oliva and O'Reilly for October 23 rd and 24th respectively, prompting your notice to me of their retaining independent counsel. After our conference before Judge Locke, I served Mr. LaPinta and Mr. Giannelli with notices to depose Simeone and O'Reilly whom they advise--they do not represent in this civil action.

Notwithstanding any of the foregoing, I am enclosing new Notices to depose Simeone, O'Reilly and Olivia upon your office(hard copies to follow). As County employees who are intimately involved in the case of Mr. Franqui, I do not understand your statement that you are not representing them. Obviously, they are named in the proposed amended complainant, and even if that application were denied they can be deposed as non-parties. If you do NOT represent them please advise ASAP.

You also indicated that you did not receive copies of my offices written communications with Mr. LaPinta and Mr. Giannelli, however, you were cc'd on all correspondence. I am annexing a copy of those letters as well.

It is my understanding that IAB conducted an investigation into the in-custody death of Jack Franqui. Following that investigation IAB issues a report and recommendation concerning the filing of charges against respective officers under investigation for administrative or departmental regulations. You indicated at our conference that some individual officers have been charged administratively within the department. You confirmed that in today's e-mail, e.g., "No additional charges have been filed against any other officers by the Police Department as of today". Please advise and produce documents related to who was charged, by what agency and with what charges.

Finally, I find the rhetoric surrounding discovery totally unnecessary. I recommend we simply accomplish what needs to be done as harmoniously as possible.

Kind regards, Tony

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--

[Anthony M. Grandinette](#)

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8 attachments



Letter to Gianelli 11.26.14.PDF
391K



Letter to La Pinta 11.26.14.PDF
343K



Notice to Depose O'Reily.PDF
267K



Notice to Depose Simeone.PDF
260K



Notice to Depose-Simeone.PDF
247K



Notice to Depose-O'Reily.PDF
243K



Notice to Depose Simeone at SCA.PDF
298K



Notice to Depose O'Reily at SCA.PDF
267K

Zwilling, Arlene <Arlene.Zwilling@suffolkcountyny.gov>
To: Anthony Grandinette <grandinettelaw@gmail.com>

Tue, Dec 2, 2014 at 5:30 PM

If you truly wish to proceed with discovery "harmoniously" as you put it, I ask that you withdraw your pending motion, which was made without the good faith conversation the magistrate directed us to have.

Arlene S. Zwilling

Assistant County Attorney

Suffolk County Attorney's Office

H. Lee Dennison Bldg.

Hauppauge, New York 11788

(631)853-4055

Arlene.Zwilling@suffolkcountyny.gov

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From: Anthony Grandinette [mailto:grandinettelaw@gmail.com]
Sent: Tuesday, December 02, 2014 5:27 PM
To: Zwilling, Arlene
Subject: Re: Depositions of Stg. O'Reily, PO Simeone & PO Oliva

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Anthony Grandinette <grandinettelaw@gmail.com>
Draft To: Zwilling, Arlene <Arlene.Zwilling@suffolkcountyny.gov>

Tue, Dec 2, 2014 at 6:59 PM

Dear Arlene:

As I do not believe it would be productive to respond to your ridiculous and factually inaccurate claim that my e-mail request to depose witnesses is a "preemptive attempt to obscure plaintiff's failure to proceed with discovery " please advise as to availability dates of Lt Crawford, Officer Rios and Lesciewicz. I am unavailable between December 19th and the new year. For the record, all four of these depositions were formally Noticed and served on or about May 2, 2014.

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Tue, Dec 2, 2014 at 3:29 PM, Zwilling, Arlene <Arlene.Zwilling@suffolkcountyny.gov> wrote:

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--

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grandinettelaw@gmail.com <grandinettelaw@gmail.com>
To: "Zwilling, Arlene" <Arlene.Zwilling@suffolkcountyny.gov>

Tue, Dec 2, 2014 at 7:17 PM

I would ask that you produce the demanded discovery at which time I would consider withdrawing the motion not prior.

Sent from my iPhone

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